

Hoff, David

From: Wester, Barbara
Sent: Friday, August 09, 2013 11:29 AM
To: Landretti, Jane R - DNR; McKim, Krista; Bell, Brian; White, Quintin; pritchard.gary@epamail.epa.gov
Cc: Heilman, Cheryl W - DNR; Johnson, Bradley A - DNR; Lynch, Lawrence J - DNR; Lowndes, MaryAnne - DNR; Bertolacini, Jim K - DNR; Rasmussen, Russell A - DNR; Luebke, Paul W - DNR
Subject: RE: WDNR follow up: Storm Water WPDES Coverage

jane – thank you for your message following up our telephone call on august 6 regarding the gtac bulk sampling plan. as stated during the call, epa is willing to coordinate with wdnr and to provide you with our perspective of how the planned activities may be appropriately permitted under wisconsin's federally authorized npdes program and the clean water act.

we note that in many cases the application materials you have received lack sufficient detail necessary to determine appropriate permit coverage for this phase of the discharger's proposed activities.

given the uncertainties about the scope of activities to be undertaken, we have serious questions about whether a wpdes general construction stormwater permit could offer sufficient coverage to this discharger, especially to the extent that many activities appear likely to result in wastewater that comes into contact with ore-bearing rocks. for this reason, we believe that an individual permit that can be tailored to all of the planned (including potential) activities that may be undertaken during this phase of the project would provide the greatest assurance that discharges are in compliance with wisconsin's federally authorized npdes program and the clean water act. an individual permit would provide the permittee with the certainty that it needs as it proceeds with this project, as well as provide to the public the information needed to ensure confidence that the project is moving forward in compliance with all applicable requirements.

we note that in the event that discharges are not covered by an appropriate permit, the discharger would be in violation of the clean water act.

please do not hesitate to call me if you would like to discuss this matter further. we plan no other written response to your message at this time.

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From: Landretti, Jane R - DNR [<mailto:Jane.Landretti@wisconsin.gov>]
Sent: Wednesday, August 07, 2013 4:32 PM
To: McKim, Krista; Wester, Barbara; Bell, Brian; White, Quintin; pritchard.gary@epamail.epa.gov
Cc: Heilman, Cheryl W - DNR; Johnson, Bradley A - DNR; Lynch, Lawrence J - DNR; Lowndes, MaryAnne - DNR;

Bertolacini, Jim K - DNR; Rasmussen, Russell A - DNR; Luebke, Paul W - DNR

Subject: WDNR follow up: Storm Water WPDES Coverage

Thank you for taking the time yesterday to discuss the WPDES permitting process as it relates to proposed bulk sampling activities.

As we indicated on the phone, WDNR believes that coverage under the Construction Site Storm Water General Permit is the most environmentally protective permit coverage afforded by Wisconsin law for WPDES coverage of GTAC's bulk sampling activities. Although Industrial Storm Water General Permit coverage is also available for coverage of bulk sampling activities, the WDNR seeks to apply the more stringent Construction Site General Permit coverage and its required performance standards. Those performance standards require the permittee to achieve total suspended solids reductions that are not required of entities covered under the Industrial Storm Water Coverage General Permit. Accordingly, WDNR believes that coverage under the Wisconsin Construction Site General Permit is the most environmentally protective permitting authority available for bulk sampling activity.

If you disagree with our conclusion, we request a written response that indicates as much, and the legal basis for your position. As we discussed yesterday, Wisconsin law affords eligible applicants coverage under the Construction Site Storm Water General Permit within 14 days of a complete Notice of Intent. Accordingly, please provide any response by the end of business on Friday, August 9.

We also appreciate your stated willingness to provide us examples of other storm water NPDES permits that included effluent limits for bulk sampling activity.

Regards,

 *Jane R. Landretti*

Staff Attorney

Bureau of Legal Services

Wisconsin Department of Natural Resources

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